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HOUSE BILL 1959
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 1, Part 1, relative to adoption and adoption records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-127, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) Pursuant to the requirements of subsections (g) and (h) of this section, for all other adoption records involving adoptions finalized, or for any records concerning the placement for adoption of any person, which records were created on or after March 16, 1951, the adoption records, sealed adoption records, or post-adoption records in the office of the clerk, in the office of the department of health, in the office of any child-placing agency, in the state, district and county offices of the department of human services, or in any other information source, shall be available to adopted persons twenty-one (21) years of age or older or their legal representative, subject to the provisions or restrictions in the following subsections or sections. Notwithstanding any other provisions of this act to the contrary, any identifying information from any records of an adopted person shall not be released to other persons or entities by the department or any other information source without the express written consent of the adopted person twenty-one (21) years of age or older or the adopted person's legal

representative or the adoptive parent of an adopted person under the age of twenty-one (21), and, notwithstanding any other of the following provisions of this act to the contrary, the adopted person, his or her legal representative, or the adoptive parent of an adopted person under twenty-one (21) years of age shall under no circumstances be required to take any affirmative action pursuant to the contact veto provisions of this act to protect the confidentiality of such identifying information; provided, however, nothing herein shall be construed to prevent access to any identifying information in the records of the adopted person as otherwise permitted or required pursuant to §§ 36-1-125, 36-1-126 and 36-1-138.

SECTION 2. Tennessee Code Annotated, Section 36-1-108(d)(2), is amended by adding the following language to the end of the subdivision:

No employee of the department shall make any recommendation regarding or comment upon any information concerning such attorney, licensed child-placing agency or licensed clinical social worker.

SECTION 3. Tennessee Code Annotated, Section 36-1-120, is amended by adding the following new subsection (c) and by redesignating the subsequent subsections accordingly:

(c) The court shall review the affidavits required in subsection (b) and shall determine whether all fees set forth therein are reasonable. The court shall retroactively approve such fees or order the reimbursement of any fees it determines to be unreasonable.

SECTION 4. Tennessee Code Annotated, Section 36-1-102(1), is amended by adding the following new subpart (H):

(H) Any party alleging abandonment shall be required to demonstrate to the court that the parent or guardian who is the subject of a petition for termination of parental rights or adoption, has been given notice by personal service or written notice by certified mail that the consequences of such parent or guardian willfully failing to visit or

willfully failing to support or make reasonable payments toward the support of the child for a period of four (4) consecutive months will be the termination of such parent or guardian's parental rights.

SECTION 5. Tennessee Code Annotated, Section 37-2-403, is amended by inserting the following between the sixth and seventh sentences of subsection (a)(2):

The parents of the child shall receive notice to appear at the court review of the foster care plan or the plan of care and the court shall explain on the record the law relating to abandonment and shall explain that the consequences of failure to visit or support the child will be termination of the parents' rights to the child, and the court shall further explain that the parents may seek an attorney to represent the parents in any termination or parental rights proceeding.

SECTION 6. Tennessee Code Annotated, Section 36-1-127, is amended by designating the current language of subsection (c) as subsection (c)(2) and by adding the following as new subsection (c)(1):

(c)(1) Notwithstanding any other provision of law to the contrary, the provisions of Tennessee Code Annotated, Sections 36-1-139 and 36-1-141, as they existed immediately prior to passage of Chapter 532 of the Public Acts of 1995, shall continue in full force and effect until July 1, 1996, to provide the methods of access for persons for whom adoption records, sealed adoption records, or post-adoption records were created on or after March 16, 1951. The provisions for records access described in subdivision (2) of this subsection and the contact veto registry process described in subsections (d)-(f) of this section and §§ 36-1-128 through 36-1-132 regarding access to adoption records, sealed adoption records, or post-adoption records for eligible persons under subdivision (c)(2) who are affected during the period beginning on March 16, 1951, until July 1, 1996, shall only become effective on July 1, 1996. It is the intent of the general assembly to delay until July 1, 1996, the implementation of the contact veto process and

its implementing procedures as described in this part; provided, however, this subdivision shall not be construed in any manner to apply to those eligible persons subject to the provisions of subsection (b).

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.